



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Henry M. Brown, Assistant County Attorney *HMB*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*
Dave Nichols, Principal Engineer/Engineering Division *[Signature]*

DATE: April 20, 2005

SUBJECT: Settlement Authorization
Airport Boulevard, Phase III
Parcel No.: 179
Owner: Johnny Walker, as Trustee
Seminole County vs. Lewis E. White, et al.
Case No.: 2002-CA-2679-13-W

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 179 on the Airport Boulevard Phase III project. The recommended settlement is at the total sum of \$217,976.94 inclusive of all land value, severance damages, statutory interest, statutory attorney's fee and costs reimbursements. The total sum is allocated: Land Value \$198,000.00, statutory attorney's fee \$4,488.00; and cost reimbursements \$15,488.94.

I PROPERTY

A. Location Data

Parcel No. 179 is located with frontage on Airport Boulevard and Country Club Road. A location map is attached as Exhibit A.

B. Street Address

None. The property is vacant. A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2001-R-108 on June 26, 2001, authorizing the acquisition of Parcel No. 179. The Airport Boulevard Phase III road improvement project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on March 4, 2003, with title vesting in Seminole County on March 12, 2003, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

The fee acquisition from Parcel No. 179 totaled 19,862 s.f. from a parent tract of 21,346 s.f. leaving a remainder of 1,484 s.f. In the before, the property was rectangular in shape with frontage on both Country Club Road and Airport Boulevard. The intersection was traffic lighted. In the after, the remainder is a non-developable strip approximately 8 feet wide and 185 feet in length.

IV APPRAISED VALUES

A. County Reports

Parcel No. 179

Diversified Property Specialists, Inc. performed an appraisal showing the value as of September 20, 2001, at \$167,600.00. An update opining value as of February 1, 2003, reported full compensation to be \$178,200.00.

B. Owner's Reports

Parcel No. 179

Calhoun, Dreggors and Associates performed the owner's report as of March 12, 2003 to opine full compensation totaling \$234,700.00.

V BINDING OFFER/NEGOTIATION

The written offer was \$184,400.00. At mediation, the owner's position was \$242,683.45 inclusive of statutory interest and exclusive of attorney fees and costs.

The County's position was the appraised value of \$178,200.00. This sum was exclusive of interest, attorney's fees and cost reimbursements.

The total settlement amount is \$217,976.94. Land, severance damage, and statutory interest were mediated at \$198,000.00 contingent upon a negotiated settlement of costs within thirty (30) days. Statutory attorney fees total \$4,488.00. The negotiated costs total \$15,488.94.

VI ATTORNEY'S FEES AND COSTS

A. Attorney fee - The statutory attorney's fee reimbursement totals \$4,488.00. The sum is statutorily computed based on a settlement sum of \$198,000.00 less a written offer of \$184,400.00 to produce a benefit of \$13,600.00 at 33%.

B. Cost reimbursements - The owner claimed costs totaling \$18,525.09 allocated:

(1)	Appraisal	\$10,600.00
(2)	Planners	\$ 3,580.63
(3)	Engineering	\$ 3,875.20
(4)	Court Reporters	\$ 113.98
(5)	Exhibit preparation	\$ 81.21
(6)	Office overhead	<u>\$ 274.04</u>
Total claimed costs		<u>\$18,525.09</u>

In negotiation, several non-reimbursable office overhead costs were taken out and expert claims reduced. Negotiations resulted in a reduction of 16.8% from \$18,525.09 to \$15,406.45. The negotiated cost settlement is allocated as follows:

(1)	Appraisal	\$ 9,500.00
(2)	Planners	\$ 2,031.25
(3)	Engineering	\$ 3,762.50
(4)	Court Reporters	\$ 113.98
(5)	Exhibit preparation	\$ 81.21
(6)	Office overhead	<u>\$ 0.00</u>
Total reimbursed costs		<u>\$15,488.94</u>

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation.

VIII RATIONALE

Parcel No. 179 presented a virtual whole take because the remainder was only an undevelopable 8 foot strip of land.

The County's trial position was \$178,200.00 and the owner's appraised position was \$234,700.00. The spread between valuation numbers was \$56,500.00. A jury tends to split between valuation numbers except when either side presents a compelling case not to split. Here, a split is at \$206,450.00.

The land value settlement at \$198,000.00 is less than the split. Here, the land value settlement is at 35% of the spread.

The BCC authorized written offer at \$184,400.00 was instrumental in achieving a positive result. The statutory attorney's fee at \$4,488.00 demonstrates how effective the written offer can be in controlling fees and costs.

IX RECOMMENDATION

County staff recommends that the BCC approve this settlement in the total amount of \$217,976.94 inclusive of land value, severance damage, improvements, statutory attorney's fee and costs.

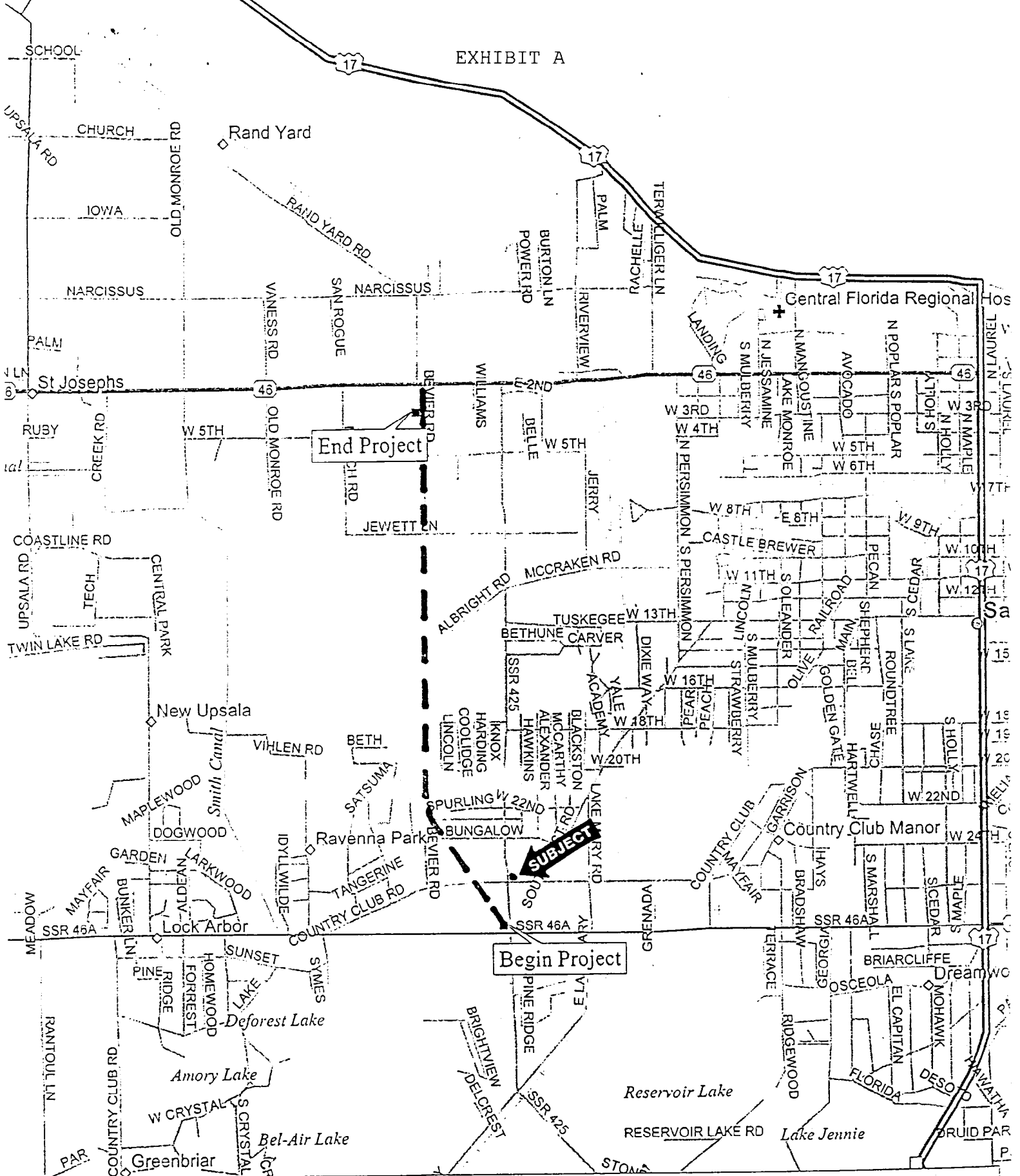
HMB/dre

Attachments

Exhibit A - Location Map

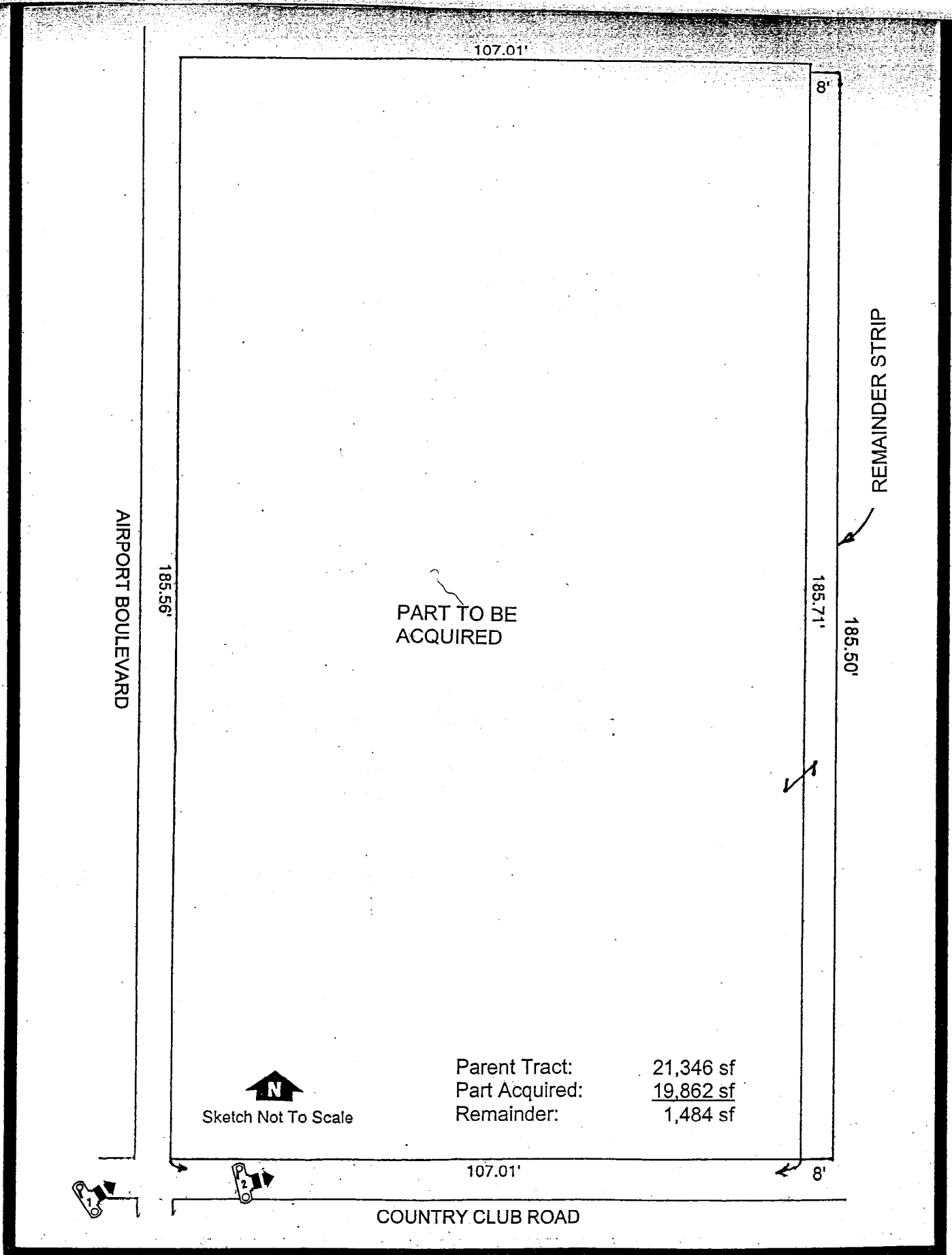
Exhibit B - Parcel Sketch

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LOCATION MAP

EXHIBIT B



PARCEL SKETCH